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Subject Submission to Blue Ribbon Panel

Pat,

John Ray of the OGP has submitted the following document to the Blue Ribbon Panel for consideration  
We think the information provided will provide useful information for the panels deliberations

Thank you



GSA MAS DISCOUNT PROVISIONS v3 doc

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**SUGGESTED IMPROVEMENTS TO PRICE REDUCTION (DISCOUNT)  
DOCUMENTATION IN GSA MULTIPLE AWARD SCHEDULE (MAS)  
SCHEDULE 70 SOLICITATION & GSA SCHEDULES WEB PAGE**

**September 4, 2005**

**Prepared by the GSA Office of Governmentwide Policy  
Office of Technology Strategy**

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# **SUGGESTED IMPROVEMENTS TO PRICE REDUCTION (DISCOUNT) DOCUMENTATION IN GSA MULTIPLE AWARD SCHEDULE (MAS) IT SCHEDULE 70 SOLICITATION & GSA SCHEDULES WEB PAGE**

September 4, 2008

## **OVERVIEW**

This critical assessment paper was developed to provide observations and feedback on the GSA Multiple Award Schedule (MAS) program to be considered with any improvements that may be made. With the establishment of the GSA MAS Advisory Panel, it is believed this is an opportune time to provide these insights.

This paper is organized as follows:

- I Overview
- II Observations and Recommendations
- III Specific Comments on GSA MAS IT Schedule 70 Solicitation and GSA Schedule Contract Web Pages
- IV Specific Comments on GSA Schedule Contract Web Page Frequently Asked Questions
- V Former GSA Teleprocessing Services Program

The primary sources reviewed for the observations presented in this paper include the GSA Multiple Award Schedule (MAS) Information Technology (IT) Schedule 70 Solicitation and the GSA Schedules Web page. We also reviewed the last sentence of FAR 8 405-4 Price Reductions and other provisions of FAR 8 4 Federal Supply Schedules that contain cross-references to FAR 8 405-4 generally.

The goal of this paper is to provide suggestions on how to improve the communication of information pertaining to the MAS price reduction (discount) process so it is clearly understood by Federal agency users of the MAS and by MAS contractors.

## **II OBSERVATIONS AND RECOMMENDATIONS**

### **A MAS Price Reductions (discounts)**

The MAS price reduction (discount) process is based on the following two sentences, identified with the corresponding citations:

- "Schedule contractors are not required to pass on to all schedule users a price reduction extended only to an individual ordering activity for a specific user " This is the last sentence of FAR 8 405-4, and is only place in FAR 8 4 this statement is found (Source FAR 8 405-4, Price Reductions)
- "There shall be no price reduction [requirement caused] for sales (2) To eligible ordering activities [ordering agencies] under this contract" (Source MAS IT Schedule 70 C 28 Price Reductions Clause, subparagraph (d))

These MAS discount and price reduction provisions allow MAS contractors maximum flexibility to reduce prices and increase discounts on orders placed with ordering activities without being required to pass the lower prices and higher discounts to all MAS schedule users. Additionally, these provisions are in accordance with the second sentence in FAR 8 404 (a) which states "BPAs and orders placed against a MAS are considered to be issued using full and open competition"

These observations and recommendations are based on reviewing MAS discount and price reduction information from the following primary sources

- A single example through MAS Solicitation FCIS-JB-980001—B—REFRESH #21 (ISSUED6/13/2007), which can be accessed on the IT Schedule 70 part of the GSA Web page under Technology Contracts, to review discount and related provisions including the price reduction clause
- The primary GSA Schedules Web page and GSA IT Schedule 70 information on the Technology Contracts Web page

**There is no need to revise the MAS IT Schedule 70 Solicitation C.28 Price Reductions clause and there is no need to revise the FAR 8.405-4, Price reductions regulatory provision. However, we recommend that current cross-references in FAR 8.4, which pertain to discounts generally, such as the last sentence of FAR 8.404 Use of Federal Supply Schedules (d) Pricing, be modified to also specifically reference the last sentence of FAR 8.405-4, Price Reductions; "Schedule contractors are not required to pass on to all schedule users a price reduction extended only to an individual ordering activity for a specific order". This is the only place in FAR 8.4 where the specific price reduction statement appears. Otherwise, we believe there is risk the last sentence will be overlooked by MAS users and MAS contractors. Additionally, we believe this lack of specificity in current FAR 8.4 crossreferences likely contributed to the lack of specificity in**

**discount and price reduction information on the GSA Schedules Web page, which we have noted in this paper.**

## **B Organization and Cohesiveness of Program Information**

**There is a very significant need to provide an updated and cohesive summary of MAS program guidance information, especially updated MAS price reduction (discount) information, for user agencies and MAS contractors**

This information should be easily accessible on the GSA Schedules Web page including the GSA IT Schedule 70 Web page, the MAS IT Schedule 70 Solicitation and other MAS Schedule Solicitations, as applicable. There is a significant amount of general information on the GSA Schedules Web page, but key information, especially MAS price reduction (discount) guidance, is very limited and is spread out. The Notice To All Offerors (pages i-xiv) of the MAS IT Schedule 70 Solicitation is limited to background information and does not provide a summary that briefly describes how agencies use MAS schedules for conducting individual procurements including placing orders with selected contractors, and there is no information on the MAS price reduction and discount process.

### **Specifically**

Provide a brief summary description about the MAS ordering process on the GSA Schedules Web page and in the summary or introduction of the MAS IT Schedule 70 Solicitation

- Should be for the perspective of the ordering agency and MAS contractor with emphasis on the MAS price reduction (discount) regulatory provision contained in the last sentence of FAR 8 405-4 Price reductions, and the MAS IT Schedule 70 Solicitation C 28, Price Reductions clause
- Should emphasize that MAS contractors have maximum flexibility in reducing prices and increasing discounts on individual orders for supplies and/or services without impacting their MAS contract Price Reductions Clause (C 28)
- Should briefly summarize the overall MAS ordering process including acquisition planning, requirements analysis, analysis of alternatives, preparation of a statement of work (SOW), and providing acquisition information to MAS contractors as set forth in FAR 8 4, Federal Supply Schedules

- Should encourage use of Blanket Purchase Agreements (BPA) (see below) and statements of work for MAS procurements for supplies and services in accordance with FAR 8 405-3, Blanket purchase agreements and FAR 8 405-2, *Ordering procedures for services requiring a statement of work*
- Should state that agencies should follow FAR 8 405-1, *Ordering procedures for supplies and services procurements* not requiring a statement of work

## C Encourage Use of BPAs

**MAS BPAs are a cost effective way to acquire products and services and should be encouraged for moderate to large requirements** with the potential of being used for very large requirements. The BPA is a low procurement cost and low procurement risk acquisition alternative for supplies and/or services compared to conducting negotiated procurements. The MAS BPA is low risk because the prices and discounts in individual MAS contracts are better than best commercial prices and discounts, and the structure of prices and discounts in MAS contracts is how contractors sell their supplies and services commercially. As stated earlier, the MAS discount and price reduction provision allows MAS contractors maximum flexibility to reduce prices and increase discounts on orders without being required to pass the lower prices and higher discounts to all MAS users. These BPA features are especially important when there is a shortage of Federal agency contracting and acquisition program staff and agency budgets are limited. The BPA could be optional for small requirements.

## D. Acquisition Advisory Panel Recommendation for a New Competitive Services Schedule

**There is no need for a new Competitive Services Schedule, which was proposed in Recommendation 4, of the Acquisition Advisory Panel, January 2007 report.**

In the Report of the Acquisition Advisory Panel, dated January 2007, Recommendation 4, New Competitive Services Schedule, stated "Authorize GSA to establish a new information technology schedule for professional services under which prices for each order are established by competition and not on posted rates." As recently as 2/27/08, Marcia Madsen, Chair of the Acquisition Advisory Panel gave testimony before the Subcommittee on Government Management, Organization and Procurement of the House Committee on Oversight and Government Reform. Ms. Madsen's statement included a paragraph on the benefits of establishing a new services schedule for the competitive procurement of services. There is no discussion or reference in Recommendation 4 about the competitive features of MAS IT Schedule 70 or the

MAS Mission Oriented Business Integrated Services (MOBIS) Schedule for the procurement of services. These competitive features include the MAS discount and price reductions provisions contained in FAR 8 405-4, *Price reductions*, FAR 8 405-2, *Ordering procedures for services requiring a statement of work (S O W)*, and FAR 8 405-3, *MAS Blanket purchase agreements (BPA)*. These referenced provisions were included in an amendment to the FAR, effective July 19, 2004 (FAR Case 1999-603 published in the June 18, 2004 Federal Register).

The following further outlines why a new schedule is not necessary:

- The MAS BPA, with an accompanying S O W, provides an efficient method for conducting individual competitive procurements for services provided under the MAS IT Schedule 70 or the MAS Mission Oriented Business Integrated Services (MOBIS) Schedule.
- The MAS discount provision for individual orders as set forth in the last sentence of FAR 8 405-4, *Price reductions* ("Schedule contractors are not required to pass on to all schedule users a price reduction extended only to an individual ordering activity for a specific order") is an especially important provision of the MAS program. Although not specifically referenced in FAR 8 405-4, this discount provision is based on MAS IT Schedule 70 Solicitation paragraph C 28, *Price Reductions*, (d) (2), "There shall be no price reduction [requirement caused] for sales 'To eligible ordering activities [ordering agencies] under this contract'."

MAS contractors have maximum flexibility to propose reductions to established prices and increase discounts for services and/or supplies contained in their MAS contracts without impacting the MAS IT Schedule Solicitation C 28 *Price Reductions* clause or FAR 8 405-4, *Price reductions* provision when responding to individual MAS procurements. Individual MAS contract prices and their descriptions for services provide a useful reference to prices and price descriptions contained in contractor proposals submitted in response to agency MAS procurements for services.

Also, in the (undated) Information Technology Association of America (ITAA) information provided recently to the MAS Advisory Panel it was suggested that "prices be 'set' by individual vendors and published on GSA Advantage." The ITAA information did not define the "set" process. Also, it was not clear if the ITAA information regarding the "set" process was intended to be applied to products and services although it appeared to relate to services. In our opinion, the "set" process is not practical for the MAS program for services or products. We agree with the premise in the ITAA paper that the MAS competitive process for individual procurements is an efficient means for acquiring services that gives MAS contractors maximum pricing flexibility. We believe a key concern stated by ITAA, which was also implicit in Advisory Panel Recommendation 4 information,

is their concern about the incredible complexity associated with the MAS negotiation process for services prior to award We suggest it would be beneficial to consider simplifying processes for reviewing vendor services/price information during the negotiation phase prior to MAS contract award. We suggest that negotiations for services prices be based on information, including prices, that is available from a MAS vendor's most recent commercial sales for services and any recent services price list information that may be available.

The MAS price reductions (discount) process fulfills the stated objective of Recommendation 4 to obtain prices in each order established by competition and not posted rates. Therefore, a new Competitive Services Schedule would duplicate the MAS IT Schedule 70 and the MAS MOBIS Schedule and is not needed.

### **III. Specific Comments on the GSA MAS IT Schedule 70 Solicitation and the GSA Schedule Contract Web Pages**

A The brief information on discounts contained in the Blanket Purchase Agreement (BPA) clause (C 9) on page 30 of the solicitation does not reference the Price Reductions clause (C 28), on pages 41, 42, and the FAR 8 405-4, Price reductions regulatory provision The Price Reductions clause C 28 (d) states "There shall be no price reduction [requirement caused] for sales- (2) to eligible ordering activities [ordering agencies] under this contract,"etc The last sentence of FAR 8 405-4 states "Schedule contractors are not required to pass on to all schedule users a price reduction extended only to an individual ordering activity for a specific order " The C 9 clause needs to be clarified

B The C 11 clause on page 31 of the solicitation, Requirements Exceeding the Maximum Order, contains a statement that the Price Reductions clause is not applicable to a new lower price offered for requirements exceeding the Maximum Order limitation Additionally, the C 11 clause does not reference FAR 8 405-1 (d), Orders exceeding the maximum order threshold, FAR 8 405-2 (3) For proposed orders exceeding the maximum order threshold or when establishing a BPA, and FAR 8 405-4, Price reductions regulatory provisions The additional references need to be added in C 11

C As noted, there is a significant need to provide additional clarifying information on the GSA Schedules Web page For example, in appropriate areas throughout the web pages there needs to be a statement that MAS contractors are not required to pass on to all schedule users a price reduction extended only to an individual ordering activity for a specific order in accordance with FAR 8 405-4 *Price reductions* and the *MAS IT Schedule 70 Solicitation Price Reduction clause C-28* Also, there needs to be a brief discussion that this MAS price reduction (discount) feature allows MAS contractors maximum flexibility to



propose reductions to established prices and increase discounts for supplies and/or services contained in their MAS contracts when placing an order  
Examples of the specific areas this clarifying information should be added include

- On the main Schedules Web Page (3 pages), the *Ordering From Schedules* topic includes a statement "Although GSA has already negotiated fair and reasonable pricing, ordering activities may seek additional discounts before placing an order " There is no reference or discussion about additional discounts and reduced prices available through the MAS price reduction (discount) feature and that increased discounts and reduced prices are not required to be passed on to all schedule contract users This needs to be updated
- The *Ordering From Schedules* topic on the main page summary also includes a *Basic Schedule Ordering Guidelines* sub-topic (9 pages) Although the sub-topic has related information in paragraphs 9, Maximum Order, 10, Price Reductions, and 11 , Blanket Purchase Agreements (BPAs), there is no reference or discussion in the subtopic about additional discounts and reduced prices available through the MAS price reduction (discount) feature and that increased discounts and reduced prices are not required to be passed on to all schedule contract users This needs to be updated
- On the main Schedules Web page (three pages) under Schedule Features, there is a topic on Blanket Purchase Agreement (BPA) which contains links to multiple subtopics, and a discussion on additional MAS discounts There is nor reference or discussion that additional discounts and reduced prices are available through the MAS price reduction (discount) feature and are not required to be passed on to all schedule contract users This needs to be updated
- The subtopic, *Ordering from Blanket Purchase Agreements* (BPAs), has a price Reductions paragraph that states in part, "Schedule contractors are not required to pass on to all Schedule users a price reduction extended only to an individual ordering activity for a specific order (FAR 8 405-4) " Also, there needs to be brief discussion this MAS discount feature allows MAS contractors maximum flexibility to propose reductions to established prices and increase discounts for supplies and/or services contained in their contract This is the first reference we found on the GSA Schedules Web page to the specific MAS price reduction (discount) provision This reference does not reference the MAS IT Schedule 70 Solicitation C 28 Price Reduction clause The subtopic needs to be updated

- The subtopic, Blanket Purchase Agreement (BPA) Documentation, has a sample BPA Format, which provides space for a Special BPA Discount/Price. There is no reference that additional discounts and reduced prices are available through the MAS price reduction (discount) feature and that increased discounts and reduced prices are not required to be passed on to all schedule contract users. The Sample BPA needs to be updated.
- On the main Schedules Web page (three pages) under Schedule Features, there is a Price Reductions topic that can be accessed. The Price Reductions topic provides reasonable level of detail and includes a sentence that states "GSA Schedule contractors are not required to pass on to all Schedule users a price reduction extended only to an individual customer for a specific order." This sentence does not reference FAR 8-405-4, Price reductions, and the MAS IT Schedule 70 Solicitation C 28 Price Reductions clause. Also, there needs to be brief discussion this MAS price reduction (discount) feature allows MAS contractors maximum flexibility to propose reductions to established prices and increase discounts for supplies contained in their contract. The Price Reductions topic needs to be clarified.

#### **IV Specific comments on Web site pages Frequently Asked Questions**

##### **A Comments on the Schedules Web page Frequently Asked Questions**

###### **1 Question 3, How do I know I am getting the best price?**

Although the answer references FAR 8 405-4 Price reductions and discusses price reductions generally, the answer does not state specifically or refer to the last sentence in FAR 8 405-4 which states "Schedule contractors are not required to pass on to all schedule users a price reduction extended only to an individual ordering activity for a specific order." Also, the answer does not state that price reductions in MAS purchase orders do not constitute a price reduction under the MAS IT Schedule 70 Solicitation C 28, Price Reductions clause. There is no statement the price reduction provision gives MAS contractors maximum flexibility in providing additional discounts and price reductions on individual purchase orders for services and supplies contained in their contract. This answer needs to be clarified.

###### **2 Question 5, How are the procedures for ordering supplies under GSA Schedule contracts different from the procedures for ordering services?**

Although the rather lengthy answer includes some discussion about price reductions generally, there is no statement or reference to the last sentence in FAR 8 405-4 Price reductions which states "Schedule contractors are not required to pass on to all schedule users a price reduction extended to an

individual ordering activity for a specific order " Also, the answer does not state that price reductions in MAS purchase orders do not constitute a price reduction under the MAS IT Schedule 70 Solicitation C 28, Price Reductions clause

Additionally, there needs to be a statement the price reduction provision gives MAS contractors maximum flexibility in providing additional discounts and price reductions on individual orders for supplies contained in their contract

**3 Question 12, what is a Blanket Purchase agreement (BPA) under the GSA Schedule contract?**

The answer references leveraging a customer's buying power by taking advantage of quantity discounts and also states "the entire agency reaps the benefits of additional discounts negotiated into the BPA " This needs to be clarified to state the advantages provided to MAS users and MAS contractors from the FAR 8 405-4, Price reductions, provision and MAS IT Schedule 70 Solicitation C 28 Price Reductions Clause In accordance with these provisions, contractors are not required to pass on to all schedule users a price reduction extended only to an individual ordering activity for a specific order There is no statement the price reduction provision gives MAS contractors maximum flexibility in providing additional discounts and price reductions on individual purchase orders for services and supplies contained in their contract Also, a statement is needed that a customer agency can add terms and conditions to its BPA provided the terms and conditions do not impact the terms and conditions of the basic schedule contract In addition, a statement is needed that during performance of a BPA, a customer agency can add new contractors and remove non-performing contractors as needed The answer to question 12 needs to be clarified Please see comments under Questions 3 and 5, above

#### **B Comments on the Blanket Purchase Agreement (BPA) Frequently Asked Questions**

**1** Only one of the 14 BPA questions reference price reductions Question 3 has two questions, "Is there a dollar amount too large for GSA Schedule BPA procedures?" and "Is there a limit on the dollar value of an order placed against a BPA?" The answer states generally ordering activities may be able to obtain greater discounts, regardless of the size of individual orders and during the annual review to determine if additional discounts can be obtained

There is no specific discussion in the answer to question 3 about the flexibility that the price reduction provisions contained in FAR 8 405-4, Price reductions, and MAS IT Schedule 70 Solicitation clause C 28, Price Reductions, provides to contractor pricing when responding to MAS BPA procurements This is especially important because contractors are not required to provide any price reductions and increased discounts offered in response to individual BPA procurements to other schedule users Additionally, a MAS BPA procurement is

considerably lower procurement risk and procurement cost for user agencies and for contractors compared to conducting negotiated procurements for the same supplies and/or services. The answer to BPA Question 3 needs to be clarified accordingly as recommended above.

**C Comments on IT Schedule 70 information on the GSA Web page including IT Schedule 70 Frequently Asked Questions.** The IT Schedule 70 information can be accessed two ways under GSA Contracts and Schedules (1) Under GSA Schedules and (2) Technology Contracts

1 When IT Schedule 70 is accessed under Technology Contracts, there is no readily apparent link to Schedule Contract background information available on the GSA Schedules Web page. Also, the background information on the IT Schedule 70 Web page is very limited with very limited reference to MAS discount provisions. We suggest that a summary paragraph be provided on the IT Schedule 70 Web page that briefly describes background information on the GSA Schedules Web page and provide a link to that page. We also suggest that the summary of the MAS procurement process we discuss in Observation II B on page 3 of this assessment, above, be included with the IT Schedule 70 page and/or provide a brief summary paragraph with a link to the summary. An advantage on the current page is the 14 MAS Special Item Numbers including 132-51, Information Technology Services and 132-62 HSPD-12 Product and Services Components are very visible.

**D The following are comments on IT Schedule 70 Web page Questions and Answers**

1 Question 3, How do I know I am getting the best price?

The answer is similar to the answer to the same Question 3, under Questions and Answers on the Schedule Contract Web page.

The answer does state the availability of Most Favored Customer discounts, however, the answer does not reference or discuss the price reductions information contained in FAR 8 405-4, Price reductions, and paragraph C 28, Price Reductions, in MAS IT Schedule 70 Solicitation. Also, the answer does not state that price reductions in MAS purchase orders do not constitute a price reduction under the MAS IT Schedule 70 Solicitation C 28, Price Reductions clause and FAR 8 405-4, Price reductions. There is no statement the price reduction provision gives MAS contractors maximum flexibility in providing additional price reductions and increased discounts without impacting their MAS Price Reductions clause contained in paragraph C 28 of the MAS solicitation. This answer needs to be clarified.

2 Question 4, How is purchasing from GSA Schedule 70 better than purchasing on the open market?

The first sentence of the answer states "When you purchase from Schedules you know that GSA has already determined the price to be fair and reasonable " We agree this is a very important advantage, however, we suggest the answer also discuss Schedule contract price reductions advantages that are available through FAR 8 405-4, Price reductions, and paragraph 28, Price Reductions, in the MAS IT Schedule 70 Solicitation Also, another very important advantage is the MAS price reduction provision gives MAS contractors maximum flexibility in providing additional price reductions and increased discounts without impacting their MAS Price Reductions clause contained in paragraph C 28 of the MAS solicitation as set forth in our comments in Question 3, above The Question 4 answer needs to be clarified

3 Question 6, What is all this talk about a Blanket Purchase Agreement (BPA) under GSA Schedules? What exactly is it?

The answer provides useful information about the BPA including the potential for additional discounts, however, there is no reference to the price reduction and increased discount benefits that result from FAR 8 405-4, Price reductions, provision and the MAS solicitation C 28, Price Reductions, clause as set forth in our comments under Questions 3 and 4, above, including the maximum flexibility contractors have in providing additional price reductions and increased discounts without impacting their MAS contract price reduction clause This needs to be clarified

4 Question 7, What is the Maximum Order Threshold that everyone is so exited about?

The answer provides useful information regarding seeking a price reduction for orders that exceed the maximum order threshold, but it does not reference or state that MAS schedule contractors are not required to pass on to all schedule users a price reduction extended to an individual ordering activity for a specific order in accordance with FAR 8 405-4, Price reductions and the MAS IT Schedule 70 Solicitation paragraph C 28, Price Reductions clause The answer also needs to state that MAS contractors have maximum flexibility in providing additional price reductions and increased discounts without impacting their MAS contract price reduction clause This needs to be clarified

## **V. Former GSA Teleprocessing Services Program (TSP)**

GSA went through similar schedule contract price reduction provision and program guidance issues when we added the Net Discount provision in the former GSA Teleprocessing Services Program (TSP) schedule contracts in FY

1984 We added the Net Discount provision to the former TSP schedule contracts because we had gone through a wave of unbalanced pricing (window, other innovative pricing, etc ) in negotiated procurements for teleprocessing services (remote computing services) The GAO issued a report on the TSP in 1983 because of the severity of the unbalanced pricing problem John Ray from our office managed the former TSP program from August 1977 through early 1989 while assigned to the then GSA Office of Procurement

The former TSP Net Discount provision is analogous to the MAS discount provision contained in the last sentence of FAR 8 405-4, Price reductions regulatory provision, the MAS IT Schedule 70 Solicitation C 28 Price Reductions clause, the MAS Blanket Purchase Agreement (BPA) contained in FAR 8 405-3 regulatory provision and the MAS IT Schedule 70 Solicitation C 9 BPA clause The BPA was added to the MAS program in late 1995 The former TSP schedule contractors and Federal agency TSP users were made fully aware through TSP schedule solicitation provisions and program guidance that any additional discounts and price reductions offered through a new purchase order from a TSP schedule Net Discount procurement did not trigger the TSP schedule contract price reduction clause The former Net Discount provision was used for small and large TSP schedule contract procurements because it was significantly lower procurement risk and lower procurement cost compared to conducting negotiated procurements for teleprocessing services The former TSP schedules included provision for support services and limited design and programming services using task requests submitted with purchase orders for teleprocessing services The task requests were included with individual TSP Letters of Interest (LOI) and accompanying requirements packages which were sent to all TSP schedule contractors

For comments or questions, please contact John Ray, Deputy Director, Interagency Policy and Management Division, Office of Technology Strategy, GSA Office of Governmentwide Policy, (202) 501-3473